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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/521,618

03/08/2000

Marc Jan Rene Leblans

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EXAMINER

LUU, THANH X

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/521,618

Applicant(s)

LEBLANS ET AL.

Examiner

Thanh X. Luu

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53,54,56,57 and 59-65 is/are rejected.
- 7) ☒ Claim(s) 55 and 58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 012005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to amendments and remarks filed January 3, 2005. Claims 53-65 are currently pending.

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. Claims 53, 54 and 59 are objected to because of the following informalities:

In claim 53, third to the last line, Examiner believes "an object plane to be examined" should be --an object to be examined--.

In claim 54, "the table of the probe arm" lacks proper antecedent basis.

In claim 59, "the plurality of diodes" lacks proper antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 53, 54, 56, 57 and 61-65, are rejected under 35 U.S.C. 102(b) as being anticipated by Hignette et al. (U.S. Patent 5,191,393).

Regarding claims 53, 54, 56, 57 and 61-65, Hignette et al. disclose (see Figs. 1 and 2) a microscope, comprising: an imaging system (21) for creating an image of an

object plane (at 3) using an illumination light (from 22, 8) beam of a first wavelength comprising a plurality of lenses (not labeled) positioned along a main optical axis (at 29) of the microscope, and an optical output device (41, 42, 48) for creating an image of the object plane on the image plane; a system for automatically focusing (10, 33) the image in the microscope, comprising: an autofocusing light beam (see col. 6, lines 35-40 and FR2620537, incorporated by reference) of a second wavelength, the autofocusing light beam being directed to reflect off the object plane; an autofocusing detection device (see FR2620537) comprising a detection system lens for receiving the reflected autofocusing light beam and directing the reflected autofocusing light beam onto a detection surface; a plurality of light sensors (see FR2620537) adapted to measure the light intensity of the reflected autofocusing light beam as claimed; the imaging system further comprises: a probe arm (7) supporting the plurality of lenses, the probe arm extending generally along the main optical axis; a scanning stage and a support (4) on which an object to be examined is placed, wherein the object plane substantially extends along a focus plane that is observed through the microscope, and wherein the object plane is substantially parallel to the main optical axis. Hignette also disclose (see Fig. 1) the scanning stage and the support are positioned on a separate table (5) than a table of the probe arm (9), such that the probe arm is substantially isolated from vibrations created by the scanning stage.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hignette et al. in view of Hutley (U.S. Patent 4,600,831).

Regarding claims 59 and 60, Hignette et al. disclose the claimed invention as set forth above. Hignette et al. do not specifically disclose a cylindrical lens and a quad photo diode as claimed. Hutley teaches (see Figs.) an autofocusing device having a cylindrical lens (32) and a quad photo diode (36). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide such elements in the apparatus of Hignette et al. in view of Hutley to increase sensitivity and improve focusing.

Allowable Subject Matter

7. Claims 55 and 58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X. Luu whose telephone number is 571-272-2441. The examiner can normally be reached on M-F 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Thanh X Luu
Primary Examiner
Art Unit 2878

02/2005